

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

DAVID SLAUGHTER,

Plaintiff,

No. CIV S-03-0217 DFL KJM P

vs.

SACRAMENTO COUNTY
SHERIFF'S DEPARTMENT, et al.,

Defendants.

ORDER AND

FINDINGS AND RECOMMENDATIONS

Plaintiff is a California prisoner proceeding pro se with an action for violation of civil rights under 42 U.S.C. § 1983. Two matters are before the court.

I. Plaintiff's Motion For Summary Judgment

On January 3, 2006, plaintiff filed a motion for summary judgment.¹ Plaintiff makes no argument in support of his motion. He simply asks that summary judgment be entered based on exhibits attached to the motion. This is not a proper request. Under summary judgment

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¹ Defendants have filed an opposition to the motion, and plaintiff a reply, all of which the court has reviewed before issuing these findings and recommendations.

1 practice, the moving party

2 always bears the initial responsibility of informing the district court
3 of the basis for its motion, and identifying those portions of “the
4 pleadings, depositions, answers to interrogatories, and admissions
on file, together with the affidavits, if any,” which it believes
demonstrate the absence of a genuine issue of material fact.

5 Celotex Corp. v. Catrett, 477 U.S. 317, 323 (1986) (quoting Fed. R. Civ. P. 56(c)); see also Order
6 filed Dec. 7, 2004 (explaining summary judgment procedures). Plaintiff has not met his burden
7 under Celotex. He has not informed the court why he should be granted summary judgment nor
8 demonstrated the absence of genuine issues of material fact. The court will recommend that
9 plaintiff’s motion for summary judgment be denied.

10 2. Plaintiff’s June 12, 2006 Motion To Compel

11 Plaintiff has filed a motion asking that the court order defendants to provide
12 plaintiff with all of his medical records dated between April 21, 2001 and December 1, 2004.
13 Counsel for defendants filed a response, and supporting affidavit, indicating that defendants have
14 provided plaintiff with all medical records in their possession.² Therefore, plaintiff’s motion to
15 compel will be denied.

16 In accordance with the above, IT IS HEREBY ORDERED that plaintiff’s June 12,
17 2006 motion to compel is denied; and

18 IT IS HEREBY RECOMMENDED that plaintiff’s January 3, 2006 motion for
19 summary judgment be denied.

20 These findings and recommendations are submitted to the United States District
21 Judge assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty
22 days after being served with these findings and recommendations, any party may file written
23 objections with the court and serve a copy on all parties. Such a document should be captioned

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25 ² Defendants are employees of the Sacramento County Jail. A review of the court’s
26 records indicates that plaintiff was transferred from the Sacramento County Jail to the California
Department of Corrections in January of 2004. See docket entry #13.

1 “Objections to Magistrate Judge’s Findings and Recommendations.” Any reply to the objections
2 shall be served and filed within ten days after service of the objections. The parties are advised
3 that failure to file objections within the specified time may waive the right to appeal the District
4 Court’s order. Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

5 DATED: July 13, 2006.

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11 UNITED STATES MAGISTRATE JUDGE

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